

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**BOARDS OF TRUSTEES OF
OHIO LABORERS' FRINGE
BENEFITS PROGRAMS,**

Plaintiff,

v.

**Case No. 2:17-cv-180
Chief Judge Edmund A. Sargus, Jr.
Magistrate Judge Elizabeth P. Deavers**

**DAN-RAY CONSTRUCTION,
LLC, *et. al.*,**

Defendants.

This matter is before the Court for consideration of the Magistrate Judge's Report and Recommendation (ECF No. 33) that default judgment be entered against Defendants and Defendants' Objection to that recommendation. (ECF No. 34.)

On February 16, 2018, the Magistrate Judge held a status conference. (ECF Nos. 31, 32.) While counsel for Plaintiffs appeared and participated in the conference, Defendants failed to appear, which was Defendants' second failure to appear. (ECF No. 32.) The Magistrate Judge then directed Defendants to show cause within fourteen days why the Court should not enter default against them for failure to appear and defend. (ECF No. 32.) Further, the Court specifically advised Defendants that a failure to respond to the Show Cause Order could result in default judgment entered against them. Defendants failed to respond. The Magistrate Judge then issued the at-issue Report and Recommendation (ECF No. 33) recommending that the Court direct the Clerk to enter default judgment against Defendants for their failure to appear and defend.

Defendants have objected, in sum claiming excusable neglect. Defendant had been cautioned more than once that more missed conferences or failures to respond to orders would result in judgment entered against him. Indeed, counsel received the February 16, 2018 Show Cause Order through e-mail. (ECF No. 35-1.) Thus, the Court finds that Defendants' multiple failures to appear combined with the missed deadline for the Show Cause Order, should result in default judgment granted for Plaintiff. Therefore, the Court **OVERRULES** Defendants' Objection (ECF No. 34) and **ADOPTS** the Report and Recommendation. (ECF No. 33.) The Clerk should enter default against Defendants.

IT IS SO ORDERED.

4-6-2018
DATE


EDMUND A. SARGUS, JR.
CHIEF UNITED STATES DISTRICT JUDGE